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Attorneys for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL MELOHN,

Civil Action No. 20-cv-05536

Petitioner,

-against-

SY STERN, RABBI MAYER ZAKS,
SIMA WEINTRAUB, AKIVA FEINSOD,
ELI KUNSTLINGER, YAAKOV BEYMAN,
DAVID TEILER, ROBERT KUNSTLINGER,
EZRA BEYMAN, ALFONS MELOHN,
and JOHN DOES 1-20.

**AMENDED PETITION
FOR PRE-ACTION
DISCOVERY PURSUANT
TO F.R.C.P. 27**

Respondents.

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COMES NOW Petitioner, MICHAEL MELOHN, (hereinafter “Petitioner”), by and through his counsel, Condon & Mara, PLLC, as and for his Amended Petition for Pre-Action Discovery, pursuant to Rules 27 and 34 of the Federal Rules of Civil Procedure (“F.R.C.P.”), states as follows:

1. Petitioner respectfully petitions this Court for an Order and Judicial Subpoenas Duces Tecum directing the Respondents, SY STERN (“Stern”), RABBI MAYER ZAKS (“Zaks”), SIMA WEINTRAUB (“Weintraub”), AKIVA FEINSOD (“Feinsod”), ELI KUNSTLINGER (“E. Kunstlinger”), DAVID TEILER (“Teiler”), ROBERT KUNSTLINGER (“R. Kunstlinger”), EZRA BEYMAN (“E. Beyman”), YAAKOV BEYMAN (“Y. Beyman”) and ALFONS MELOHN

(hereinafter collectively “Respondents”) to submit to a deposition or, alternatively, to produce documents showing the identity of Respondents John Does 1-20 (the “John Doe Respondents”), who participated in and/or conspired to participate in the pattern of racketeering activities by which the named and known Respondents have engaged and/or conspired to commits acts of racketeering since in or about 2013 through present date, proximately causing injury to Petitioner, the Alfons and Elizabeth Melohn 1997 Trust Agreement (the “Trust”), and Respondent Alfons Melohn, insomuch as Respondents have induced, coerced, extorted, and/or manipulated Respondent Alfons Melohn to, *inter alia*:

- a. Transfer, invest, and/or otherwise remit in excess of \$100 Million Dollars to one or more Respondents to perpetuate a fraudulent scheme of, *inter alia*, money laundering, fraud, conversion to the detriment of the Petitioner, the Trust, and Alfons Melohn and to the sole benefit of one or more of the Respondents and/or the John Doe Respondents, otherwise known as the participating parties whose identities are unknown to Petitioner at this time;
- b. Commingled Trust funds, to which Petitioner is the intended beneficiary and equitable interest holder of said assets, in perpetuation of the aforesaid fraudulent scheme;
- c. Remit and cash in government-issued bonds, issued in the name of the Petitioner, and thereafter converted the cash value of said bonds to the detriment and exclusion of the Petitioner;
- d. Upon information and belief, took advantage of Alfons Melohn having been overmedicated so that Alfons Melohn’s mental faculties and capacities would be impaired so as to allow Respondents to easily coerce, induce, extort, and/or

manipulate Alfons Melohn to agree with and participate in their fraudulent scheme, Alfons Melohn's participation being that of conciliation and provision of monies;

- e. Having removed Elizabeth Melohn as Trustee from the Trust, and in her place, naming Respondent Weintraub, who is the wife of Respondent Zaks, and, upon information and belief, agreeing to Respondent Weintraub earning an excessive five hundred thousand (\$500,000.00) dollar annual trustee salary, despite her non-involvement in the family matters and Trust; and
- f. Having hired family members for "no show" jobs in Assisted Living Facilities in Florida who were paid from corporations owned by Alfons Melohn.

2. Petitioner is one of the children of Alfons Melohn and Elizabeth Melohn.

3. Respondents' fraudulent scheme of racketeering activities began in or around 2013 and continues through the present date.

4. Petitioner intends to commence an action against Respondents and the John Doe Respondents for, *inter alia*, violations of civil RICO pursuant to 18 U.S.C. § 1961 *et seq.*, fraud, conversion, constructive trust, and money had and received, the scheme by which Respondents intended to harm Petitioner and Respondent Alfons Melohn. Upon information and belief, the amount of damages sought will exceed \$100 Million Dollars, based upon the damages sustained to Petitioner, the Trust, and Alfons Melohn.

5. Petitioner cannot commence an action at the present time with the particularity and specificity required for the prospective causes of action because Petitioner does not know the identity of the John Doe Respondents, and based on the contentious nature of the intra-family relationship and the Respondents, it would be futile to request that the Respondents voluntarily provide such information.

6. Petitioner requires the true identity of the Respondents and the particularities surrounding the transactions induced and coerced by the Respondents in order to properly commence the action described herein above, i.e. civil RICO, fraud, conversion, etc.

7. Therefore, Petitioner respectfully requests that this Honorable Court issue a Judicial Subpoena Duces Tecum, pursuant to FRCP 27 and 34, upon the named Respondents herein, directing Respondents to submit to a deposition or, alternatively, produce documents showing the true identity of the John Doe Respondents, who have engaged in and/or conspired to engage in the fraudulent racketeering scheme perpetuated by the named Respondents.

8. No prior application has been made for the relief requested in this Amended Petition.

Dated: Nanuet, New York
July 23, 2020

Yours, etc.

CONDON & MARA, PLLC

By: 

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